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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,557	06/14/2000	Robert C. Dixon	226/132	1401

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EXAMINER

MOORE, JAMES K

ART UNIT

PAPER NUMBER

2686

DATE MAILED: 08/21/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/595,557

Applicant(s)

DIXON, ROBERT C. 

Examiner

James K Moore

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-6, 12-20, 22, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6, 12-20, 22, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Reissue Applications***

1. The original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

2. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 2-6, 12-20, 22, 24, and 25 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

### ***Drawings***

3. The objections to the drawings set forth in the Office Action mailed October 21, 2002 (Paper No. 13) have been withdrawn, and the subsequent proposed drawing corrections submitted January 30, 2003 have not been approved, because amendments to the original patent drawings are not permitted. See 37 CFR 1.173(b)(3).

***Claim Objections***

4. Claims 22, 24, and 25 are objected to because of the following informalities:

In claim 22, at the end of line 15, the semicolon should be deleted, and "and said base station communicates with said user stations using time division duplexing" should be inserted.

In claim 24, "A multiple user wireless communication system, comprising:" should be inserted at the beginning of the claim.

Claim 25 should depend on claim 24.

In a telephone interview with Mark Watson on May 16, 2003, it was indicated that these omissions/errors were the results of clerical mistakes.

***Claim Rejections - 35 USC § 102***

5. The indicated allowability of claims 4 and 6 is withdrawn in view of the newly discovered reference(s) to Chuang et al. (U.S. Patent No. 5,212,831). Rejections based on the newly cited reference(s) follow.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 2 and 4-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Chuang et al.

Regarding claim 4, Chuang discloses a wireless communication system (5). See col. 10, lines 22-27. The system comprises a pattern of cells, and a base station (port 30, 40, 50, or 70) dynamically assigned a first transmission frequency for transmitting to a first cell in the pattern of cells. The first transmission frequency is not assigned to any base station for transmitting to any cell in the pattern of cells adjacent to the first cell. See col. 10, lines 47-49; col. 11, lines 56-57; col. 12, lines 8-58; and col. 13, lines 8-14. The system also comprises user stations (portables) each assigned a second transmission frequency for transmitting to the base station for the first cell. The second transmission frequency is not assigned to any user station in any cell in the pattern of cells adjacent to the first cell. The base and the user station communicate using TDMA. See col. 11, lines 34-48.

Regarding claim 2, Chuang discloses all of the limitations of claim 4, and also discloses that the first transmission frequency is from a first set comprised of a limited first predetermined number of frequencies, the second transmission frequency is from a second set comprised of a limited second predetermined number of frequencies, and the first set of frequencies is different than the second set of frequencies. See col. 12, lines 20-23 and 30-34.

Regarding claim 5, Chuang discloses all of the limitations of claim 4, and also discloses that the user stations in the first cell are dynamically assigned the second transmission frequency. See col. 12, lines 29-34.

Regarding claim 6, Chuang discloses a wireless communication system (5). See col. 10, lines 22-27. The system comprises a pattern of cells, and a base station (port

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30, 40, 50, or 70) assigned a first transmission frequency for transmitting to a first cell in the pattern of cells. The first transmission frequency is not assigned to any base station for transmitting to any cell in the pattern of cells adjacent to the first cell. See col. 10, lines 47-49; col. 11, lines 56-57; col. 12, lines 8-58; and col. 13, lines 8-14. The system also comprises user stations (portables) each assigned a second transmission frequency for transmitting to the base station for the first cell. The second transmission frequency is not assigned to any user station in any cell in the pattern of cells adjacent to the first cell. The base and the user station communicate using TDMA, and transmissions between the base station transmitting to the first cell and the user stations in the first cell are time division duplexed. See col. 10, lines 22-31.

8. Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt (U.S. Patent No. 4,765,753).

Regarding claim 22, Schmidt discloses a multiple user wireless communication system comprising a plurality of cells and a base station located in each cell. Transmitters in a first cell are assigned a first code for modulating radio communication in the first cell and radio signal in the first cell are spread across a bandwidth sufficiently wide that receivers in a second cell adjacent to the first cell may distinguish communication which originates in the first cell from communication which originates in the second cell. The first cell is not adjacent to any other cell using a first code (code-division multiplexing the cells). See col. 2, lines 26-48. The base station transmits over a first frequency (broadband) and the user station in communication with the base

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station transmits over a second frequency (narrowband) different from the first frequency. See col. 2, line 49 through col. 3, line 8.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Moore, whose telephone number is (703) 308-6042. The examiner can normally be reached on Monday-Friday from 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached at (703) 305-4379.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Ken Moore

8/15/03

*JKM*

*Charles Appiah*  
**CHARLES APPIAH**  
**PRIMARY EXAMINER**